

PROFESSIONAL SERVICES AGREEMENT

I. NAME OF PARTIES OF THE AGREEMENT

This Agreement, made and entered into this 15th day of February, 2010 by and between the City of Ankeny, Iowa, a municipal corporation, hereinafter called "CITY" or "OWNER" and Snyder & Associates, Inc., 2727 SW Snyder Boulevard, Ankeny, Iowa, a corporation, hereinafter called "ENGINEER" as follows:

II. NAME OF PROFESSIONAL SERVICE

The CITY shall retain the ENGINEER to complete Professional Services for the preparation of preliminary design, final design of construction plans and specifications, contract documents, and construction services to include staking, observation and administration, for the **SE TRIBUTARY (B) TO FOURMILE CREEK** hereinafter called the "PROJECT".

A. ASSIGNMENT OF PROJECT DIRECTOR

The ENGINEER shall assign Mark A. Land, P.E. to direct the PROJECT described in this Agreement.

B. CHANGES IN PROJECT DIRECTOR

The CITY has the right to approve or disapprove any proposed change from the individual named in Article II(A). The CITY shall be provided with a resume of any proposed substitute and shall be given the opportunity to interview that person prior to its decision to approve or disapprove.

III. SCOPE OF WORK

A. GENERAL

The ENGINEER shall provide Professional Services as required to complete the preparation and assembly of the PROJECT as named in Article II and as described hereinafter as follows:

1. The PROJECT will consist of improvements to address stream channel erosion issues and associated impacts along SE Tributary (B) to Fourmile Creek from SE Delaware Avenue to SE 8th Street. This work will build upon the previously completed Fourmile Creek Tributaries Watershed Assessment Project dated July 2009. The project objective is to increase stream stability with measures that minimize impact to existing infrastructure.

2. The ENGINEER will complete design plans and specifications, construction documents, public involvement, and right of way services for the entire PROJECT. The ENGINEER will also complete bid letting assistance, construction staking, construction administration and observation, and final acceptance of the proposed PROJECT.

B. BASIC ENGINEERING SERVICES

The ENGINEER will provide the Basic Engineering Services as follows. Payment shall be made as specified in Article VI of this Agreement.

1. PROJECT ADMINISTRATION

The ENGINEER shall perform the following administrative services during the design of the PROJECTS:

- a. Monthly progress reports to the CITY.
- b. Monthly billing reports.
- c. Project coordination for engineering and coordination with the CITY, property owners, and utility companies.
- d. Project design review with the CITY, as needed.
- e. Miscellaneous meetings to review progress and attend informal meetings, Council meetings and Public Hearings.

2. SURVEY AND BASE DRAWINGS

The ENGINEER shall utilize topographic survey completed for the Fourmile Creek Tributaries Watershed Assessment Project.

- a. Boundary Survey

The ENGINEER will complete boundary survey for four parcels in locations of two (2) proposed permanent easements.

3. PRELIMINARY DESIGN AND RIGHT OF WAY PLANS

- a. The ENGINEER will develop a preliminary plan for the PROJECT. The plans will be arranged so that all right-of-way needs will be highlighted and dimensioned for a clear understanding of their proposed locations.

- b. Included with this is the following:
 - 1. Preliminary right-of-way needs.
 - 2. Clearing and Grubbing Plan.
 - 3. Grading Plan.
 - 4. Pollution Prevention Plan.
 - 5. Designed placement of Grade Control and Erosion Control Elements.
 - 6. Construction Staging and Access Plan.
 - 7. Order of magnitude of PROJECT cost.
- c. Prior to commencing work on the preliminary plans, a detailed work plan outlining the ENGINEER'S understanding of the design criteria and other information critical to the development of the preliminary plans will be transmitted to the CITY for review and approval. Modifications made to the work plan after CITY approval will be considered Extra Services as outlined in Section III. E.

4. PUBLIC INVOLVEMENT

- a. Resource Group – The resource group developed for the Fourmile Creek Tributaries Watershed Assessment Project will meet to review the preliminary design and offer input prior to the completion of the preliminary design.
- b. Public Meeting - There will be one public meeting within this scope of services. This meeting will be held at the conclusion of the preliminary design phase and prior to right of way acquisition.
- c. The ENGINEER shall draft notification to property owners adjacent to the PROJECT for each meeting to be published and distributed by the CITY. The ENGINEER will prepare necessary display drawings to be used at the public and resource group meetings.

5. FINAL DESIGN AND CONSTRUCTION PLAN PREPARATION

Upon approval by the CITY of the Preliminary Design and Right of Way Plans, the ENGINEER shall prepare construction documents for the PROJECT. The construction documents shall include, but not be limited to, the following information:

- a. Final Design Plans and Specifications - The ENGINEER shall complete the final design, plans and specifications for the improvements for the established scope for the PROJECT and shall furnish a copy of these documents to the CITY for review and approval prior to final acceptance. The design documents will

follow the current City of Ankeny's requirements. SUDAS dated 2010 will be utilized for the project specifications.

- b. Permits – The ENGINEER shall complete and submit required permits from the Iowa Department of Natural Resources as necessary for the NPDES permit prior to construction. The ENGINEER shall complete and submit the required 404 permits from the US Army Corps of Engineers.
- c. Opinion of Probable Construction Costs - The ENGINEER shall prepare an opinion of the total probable construction costs based upon the design developed. Statements of probable construction costs prepared by the ENGINEER represent the best judgment as a design professional familiar with the construction industry. It is recognized, however, that the ENGINEER has no control over the cost of labor, materials or equipment, over the Contractor's methods of determining bid prices, or over competitive bidding or market conditions. Accordingly, the ENGINEER does not guarantee that any actual cost will not vary from any cost estimate prepared by the ENGINEER.

C. CONSTRUCTION SERVICES

The ENGINEER will perform construction services for construction of the PROJECT.

1. BIDDING PHASE

Upon receipt of CITY authorization under the Final Design phase as described herein, the ENGINEER shall perform the following services:

- a. Construction Contract Documents – The improvements for the PROJECT will be let by the CITY, and the ENGINEER shall supply the necessary documents for this process.
- b. Advertising - The ENGINEER shall answer questions from potential contractors, subcontractor and suppliers, and coordinate with CITY staff during this phase of services.
- c. The ENGINEER shall attend the meeting at which bids are received, tabulate the bids and make recommendations to the City Council regarding the awarding of the construction contract to the lowest qualified bidder for the PROJECT.
- d. The services under this Agreement shall include those required for the construction of the proposed improvements for the PROJECT.

2. CONSTRUCTION ADMINISTRATION PHASE

Upon award of the initial construction contracts, the ENGINEER shall perform the following administrative services during construction of the PROJECT:

- a. During the construction phases, the ENGINEER shall specify the testing of materials and administrative procedures as per City of Ankeny's requirements and as directed by the ENGINEER.
- b. Preconstruction Conferences - The ENGINEER shall arrange and conduct a preconstruction conference with the Contractor and CITY, to review the contract requirements, details of construction, utility conflicts and work schedule prior to construction.
- c. Site Observation - The ENGINEER shall visit the construction site, at such times and with such frequency deemed necessary by the ENGINEER, to (a) observe the progress and (b) determine if the results of the construction work substantially conforms to the drawings and specifications in the Construction Documents. Site Observation does not include observation or administration of the Storm Water Pollution Prevention Plan (SWPPP) which is the sole responsibility of the OWNER (See Article III.G.2., herein).
- d. Contractor Payment Requests - The ENGINEER shall review the requests of the contractor for progress payments and shall approve a request, based on site observations, which authorizes payments and is a declaration that the contractor's work has progressed to the point indicated.
- e. Notification of Nonconformance - The ENGINEER shall notify the CITY of any known work which does not conform to the construction contract, make recommendations to the CITY for the correction of nonconforming work and, at the request of the CITY, see that these recommendations are implemented by the contractor.
- f. Shop Drawings - The ENGINEER shall review shop drawings and other submissions of the Contractor for general compliance with the construction contract.
- g. Change Orders - The ENGINEER shall prepare change orders for approval of the CITY.
- h. Substantially Complete and Final Site Observation - The ENGINEER shall perform a site observation to determine if the PROJECT is substantially complete according to the plans and

specifications and make recommendation on final payment for each construction phase.

- i. During the Construction Services Phase, the Project Manager shall confer with the CITY's Project Officer to report PROJECT status. A written progress report shall be submitted and written in such a way that it is suitable for use as a City Council information item.
- j. If the Contractor exceeds the estimated working days in completing construction of the PROJECT for any of the PROJECT lettings, or if change orders or project additions require additional working days, the ENGINEER will be compensated for administration, inspecting and staking services based on established hourly rates and fixed expenses outlined in the Engineer's Standard Fee Schedule (Exhibit "A").
- k. Final Acceptance - It is understood that the CITY will accept any portion of the PROJECT only after recommendation by the ENGINEER. Final acceptance of the PROJECT by the CITY shall not be deemed to release the Contractor from responsibility for insuring that the work is done in a good and workmanlike manner, free of defects in materials and workmanship nor the ENGINEER for liability of design.

3. CONSTRUCTION STAKING

The ENGINEER shall be responsible for providing all construction stakes for construction of the PROJECT. The construction documents will contain a provision that the ENGINEER will provide one set of stakes for each construction operation. Any staking that is destroyed due to construction that has to be replaced, will be at the Contractor's expense.

4. CONSTRUCTION OBSERVATION

The ENGINEER will provide one or more Resident Engineer or Resident Construction Observer for the PROJECT as required during the Construction Phases. If the Contractor requests a waiver of any provisions of the plans and specifications, the ENGINEER will make a recommendation on the request to the CITY for their determination. No waiver shall be granted if such waiver would serve to reduce the quality of the final product. The CITY shall never be deemed to have authorized the ENGINEER to consent to the use of defective workmanship or materials. The Construction Observer will give guidance to the PROJECT during the construction periods, including the following:

- a. Checking of lines and grades required during construction.

- b. Observation of the work for general compliance with plans and specifications. Observation does not include observation or administration of the Storm Water Pollution Prevention Plan (SWPPP), if any is required for the site, which is the sole responsibility of OWNER (See Article III.G.2., herein).
- c. Keep a record or log of Contractor's activities throughout construction, including notation on the nature and cost of any extra work or changes ordered during construction.
- d. Resident Services provide the CITY with representation at the job site during the Construction Phases of the PROJECT which results in increasing the probability that the PROJECT will be constructed in substantial compliance with the plans and specifications, and Contract Documents. However, such Resident Services do not guarantee the Contractor's performance. Resident services do not include responsibility for construction means, controls, techniques, sequences, procedures or safety.

5. CONSTRUCTION TESTING

The Resident Engineer or Construction Observer shall coordinate the acceptance testing and monitoring according to City requirements. Concrete field air and slump tests required will be completed by the Resident Engineer or Construction Observer. Moisture and density control tests will be required by the Contractor. Assurance sampling, testing and source inspection required is not expected to be provided by the ENGINEER.

6. RECORD DRAWINGS

Record Documents - The ENGINEER shall furnish reproducible record documents for the PROJECT according to City requirements. Such as-builts may contain a waiver of liability phrase in regard to unknown changes made by the Contractor without CITY/ENGINEER approval.

D. ADDITIONAL SERVICES

The ENGINEER shall provide additional services as follows. Payment shall be as specified in Article VI (C) of this Agreement.

1. ENVIRONMENTAL WETLANDS REVIEW

- a. Wetland Delineation - Snyder & Associates, Inc. will provide a Wetland Delineation. The Wetland Delineation will be performed to determine the upper boundaries of wetland areas on the PROJECT site. Snyder & Associates will review United States Geological Survey topographic

maps, National Wetland Inventory maps, Soil Survey of Polk County, Iowa, and aerial photographs as part of a preliminary data search. An on-site visit will be performed to gather data pertaining to wetland vegetation, wetland hydrology, and hydric soils. Field work will be conducted in accordance with procedures outlined in the U.S. Army Corps of Engineers 1987 Wetland Delineation Manual. The ENGINEER will provide copies of the Wetland Delineation Report summarizing the findings of the preliminary data search and the jurisdictional wetland delineation. Wetland boundaries will be field surveyed by the Environmental Scientist via a handheld GPS unit.

- b. Mitigation Plan/Concepts/Permitting (By Amendment) - The wetland delineation report, site plans, and IDNR and ACOE Joint Application Form shall be submitted to the Army Corps of Engineers (ACOE) and Iowa Department of Natural Resources (IDNR) for final determination of the wetland area. ACOE and IDNR will determine if the wetland area is jurisdictional or isolated and determine if the proposed construction plans will effect the wetland. If ACOE and IDNR determines that the wetland area is jurisdictional, than the OWNER must submit a mitigation plan to obtain the necessary permits before construction activities commence. The mitigation plan shall comply with ACOE Wetland Mitigation Guidelines and IDNR Requirements. Snyder & Associates will act as the Authorized Agent throughout the permitting process. Mitigation Plan/Concepts/Permitting, if necessary, will be based on established hourly rates and fixed expenses outlined in the Engineer's Standard Fee Schedule (Exhibit "A").
- c. Wetland Mitigation Construction (By Amendment) - Upon approval from ACOE and IDNR of the mitigation plan, a new wetland area shall be constructed off-site to compensate for the loss of jurisdictional wetlands. The ENGINEER shall oversee construction actives of the new wetland area, including soil excavation, stockpiling, and plantings. The ENGINEER shall complete a report summarizing construction activities and submit the report to the CITY and Army Corps of Engineers. Wetland Mitigation Construction, if necessary, will be based on established hourly rates and fixed expenses outlined in the Engineer's Standard Fee Schedule (Exhibit "A").
- d. Wetland Monitoring (By Amendment) - The ENGINEER will also provide follow-up monitoring as required by the Army Corps of Engineers. Planting success rates, estimation of plant cover, assessments of hydrology and erosion, and overall condition of the wetland will be performed by the ENGINEER. Additional planting, weeding, and construction changes may be required to sustain the wetland. Monitoring shall be performed annually as required by the Army Corps of Engineers. Wetland Monitoring, if necessary, will be based on

established hourly rates and fixed expenses outlined in the Engineer's Standard Fee Schedule (Exhibit "A").

2. CULTURAL RESOURCES SURVEY

a. Phase I Cultural Resources Survey

This level of investigation involves archaeological, architectural, and geomorphological investigation and evaluation of the PROJECT corridor or area. Since no standing structures are present within the corridor, the field survey will be limited to pedestrian surface survey, in areas where surface visibility is adequate and surface survey techniques are appropriate, and/or subsurface survey in areas where surface visibility is not adequate and/or there is a potential for cultural deposits in a buried context. Subsurface survey techniques in upland situations generally involve shovel testing and/or bucket auger testing depending upon the potential depth of cultural deposits.

In situations where deeply buried materials may be present (i.e., alluvial/colluvial fan and floodplain locations) subsurface testing techniques could potentially require backhoe or Giddings Probe excavation, although in some cases bucket auger testing to greater depths may be adequate. The investigation shall adhere to the most recent guidelines for Phase I archaeological investigations produced by the State Historical Society of Iowa and the Association of Iowa Archaeologists.

A Phase I investigation will result in the identification of any archaeological or architectural sites within the project impact zone and an evaluation of potential National Register eligibility of each site. A site will be found to be either ineligible, and thus warranting no further investigation, or potentially eligible, thus possibly requiring Phase II level testing and an amendment to this Agreement. The results of the Phase I will be summarized in a final report, with recommendations made for either project clearance or additional Phase II testing if potentially eligible sites cannot be avoided. All sites will be recorded on the appropriate state inventory forms.

b. Phase II Cultural Resources Survey (By Amendment)

The Phase I Cultural Resources Survey will determine if Phase II testing is necessary. If required, the Phase II testing is conducted on those archaeological sites that have been found to be potentially eligible for the National Register of Historic Places and that could not be avoided by the proposed construction project. Phase II testing can involve both hand and machine excavation of an area large enough to answer the questions concerning site integrity and significance, yet small enough to avoid adversely impacting the site

deposit. The Phase II will result in a final determination of National Register eligibility. If a site is found eligible, then data recovery (Phase III) may be required if the site cannot be avoided by the construction project, or if the impact cannot be otherwise mitigated. Phase II testing will also result in a final report summarizing the project's findings and recommendations. In the event a Phase II or Phase III investigation is recommended, the work would be added by amendment to this agreement.

3. GEOTECHNICAL INVESTIGATION

The ENGINEER shall utilize the services of private testing laboratories for the soils investigation for the PROJECT. This work shall include 6 soil borings. The borings will be completed using hand-held auger and sampling equipment. The analysis will include soil classification, sieve and hydrometer testing, Atterberg Limits, and other soil data required to complete the conceptual design of the improvements.

4. LANDSCAPE DESIGN & PLANS

A landscape plan to replace removed trees and develop a floodway corridor with non-turf grasses will be developed. Design of other landscaping is not included in the scope and will be considered Extra Services as outlined in Section III E.

5. RIGHT-OF-WAY SERVICES

The CITY shall approve the following right-of-way services before work commences:

- a. Right-of-Way Needs - The ENGINEER will specify right-of-way needs for the PROJECT for temporary construction easements for up to 24 parcels. This scope includes permanent easements for two (2) parcels and temporary construction easements for 24 parcels. If other right-of-way is identified in the design phase of the PROJECT, the costs for the development of the plats will be covered under the extra services portion of this Agreement. The CITY will review and approve all right-of-way needs prior to the development of right-of-way documents.
- b. Right-of-Way Acquisition Plats & Legal Descriptions - The ENGINEER shall develop a written file for each of the parcels and for permanent easements only complete a legal description of each parcel and right-of-way plat. An exhibit will be developed for each temporary construction easement outlining the location and general dimensions of the easement but no legal description will be developed. The stated purpose of such acquisitions, including the

type of interest, construction easement or permanent easement, to be acquired. It is assumed the project will involve two (2) permanent easement acquisition plats and 24 temporary easement exhibits.

- c. Value Determination - The ENGINEER shall complete a market valuation analysis. The market valuation analysis or its equivalent will be used to determine a formula as the basis of valuation for permanent and temporary easements with a value not to exceed \$10,000. An appraisal or estimate review is not required unless the value is in excess of \$10,000 or have conditions which contributes to a complex taking classification per Iowa DOT criteria.

Any or all appraisals shall be completed in accordance with the Iowa Department of Transportation Appraisal Manual and shall comply with the requirements as to format for appraisal.

The ENGINEER shall prepare for the CITY the fair market value determination letter for CITY approval on a form provided by the CITY. If an appraisal is required, the ENGINEER shall deliver it to the CITY for review and Fair Market Value approval by City Council prior to commencing negotiations.

- d. Appraisals -- None.
- e. Review Appraisals -- None.
- f. Right-of-Way Contract Documents - The ENGINEER will prepare an Acquisition Plan and establish and maintain parcel files. The files will contain an original acquisition plats and exhibits, summary of proposed acquisition, one copy of the Report of Record Ownership and Liens, correspondence, area computation worksheets, Contract and Conveyance documents, Appraisal/Review Appraisal/Compensation Estimate, Letter of Intent and the 10-day notice.
- g. Right-of-Way Negotiations - The ENGINEER will perform negotiations with property owners along the PROJECT corridor on behalf of the CITY. Once an agreement has been reached between the ENGINEER and a property owner, a copy of the preliminary Contract will be sent to the CITY for approval. If negotiations, in the opinion of the ENGINEER and the CITY, have reached an impasse, condemnation procedures will take effect.
- h. Right-of-Way Acquisition - Upon approval of the offer by the CITY and acceptance of the offer by the property owner, the ENGINEER will proceed with acquiring the property.

- i. The CITY will or have completed the following:
 - 1. All Reports of Record Ownership and Liens.
 - 2. Names and addresses of the titleholders.
 - 3. Examples of land sale contracts and conveyance documents.
 - 4. Legal title clearing responsibilities, payment and closing duties.
- j. Easement Staking – The ENGINEER shall stake the permanent and temporary easement locations for use in meeting with property owners during the acquisition negotiations.
- k. Condemnation: The CITY will notify the ENGINEER if services are required for condemnation and the costs such services will be by amendment to the Agreement.

6. RESETTling PROPERTY PINS

The ENGINEER shall reset property pins disturbed during construction in the original location of the property pin. This scope does not include a boundary retracement survey. Property pins that are no longer in place are not included in this scope of services.

E. EXTRA SERVICES

A contingency fund under Scope of Services will be established in the Agreement for Extra Services. If these funds are not adequate for Extra Services, an Amendment to the original Agreement will be developed for Council action.

The CITY may request Extra Services from the ENGINEER included in the Scope of Services as outlined but without a specific known need or amount. Extra Services may include, but not be limited to, additional design, survey and right-of-way work as required and will be paid out of the Extra Services fund.

F. CHANGES IN SCOPE OF SERVICES (CONTINGENCIES)

Changes in Scope of Services may include, but are not limited to, expanding the scope of the PROJECT and work to be completed; requesting the development of various documents; or requesting additional work items that increases the Engineering Services and corresponding costs. Upon initiation of Extra Services, the ENGINEER will submit the estimated cost. Such costs will be based on the current hourly rates and fixed expenses as outlined in the Engineer's Standard Fee Schedule (as shown in Exhibit "A").

If at any time during the work the ENGINEER determines that its actual costs will exceed the estimated actual costs, thus necessitating the use of a contingency amount, the ENGINEER will promptly notify the CITY, in writing, and describe what costs are causing the overrun and the reason. The ENGINEER shall not

exceed the estimated actual costs without the prior written approval of the CITY. If the ENGINEER exceeds the estimated actual costs for any reason before the CITY is notified in writing, the CITY will have the right, at its discretion, to deny the use of the contingency amount. The fee amounts will not be changed unless there is a substantial change in the PROJECT time, character, or complexity of the services covered by the Agreement.

For the ENGINEER to receive approval to use Extra Services (contingency fund), the ENGINEER will prepare a change order for CITY approval in the amount agreed upon for the work. The change order will describe the work and the amount of time needed to complete this work.

G. STORM WATER DISCHARGE COMPLIANCE / HOLD HARMLESS

1. ENGINEER'S Responsibility

In the event the scope of work to be performed under the terms and conditions of this Agreement includes permitting and creation of an initial storm water pollution prevent plan, then and in that event and notwithstanding any provision to the contrary, ENGINEER shall not be responsible or liable for compliance with any storm water discharge requirements at the site other than the preparation of the Notice of Intent for Storm Water Discharge Permit No. 2 applicable to the site and creation of the initial storm water pollution prevent plan for the site.

2. OWNER'S Responsibility

OWNER shall be solely responsible for: a) the submittal of the Notice of Intent; b) the implementation, administration and monitoring of the initial plan; c) making modifications to the initial plan as needed; d) filing the Notice of Discontinuance; and, e) compliance with all NPDES or storm water discharge statutes, rules, regulations or ordinances applicable to the site. Upon OWNER'S request, ENGINEER will include the initial Storm Water Pollution Prevent Plan as a part of the Construction Documents and will require the Construction Contractor in the Construction Contract to assume all of OWNER'S responsibilities set forth in this paragraph.

3. Indemnification

ENGINEER agrees, to the fullest extent permitted by law, to indemnify and hold client harmless against all damages, liabilities or costs including reasonable attorneys' fees and defense costs (hereafter "Claims") to the extent caused by ENGINEER'S errors, omissions or negligent acts relating to the preparation of the Notice of Intent or creation of the initial storm water pollution prevent plan. OWNER shall protect, defend, indemnify and hold ENGINEER harmless from any and all Claims caused by or in any manner related to: a) any discharges of soil, silt, sediment, petroleum

product, hazardous substances or solid waste from the site; and/or b) any alleged violation of any NPDES or storm water discharge statute, rule, regulation or ordinance, unless said Claims were primarily caused by the ENGINEER'S own negligent acts. OWNER shall release, waive and otherwise discharge any and all Claims that OWNER may assert against ENGINEER relating, in any manner, to any discharges from the Site and/or any alleged violation of any NPDES or storm water discharge statute, rule, regulation or ordinance except as set forth above. The covenants and provisions herein shall survive cessation of ENGINEER'S work on the site.

IV. RESPONSIBILITY OF THE CITY

At its own expense, the CITY shall have the following responsibilities regarding the execution of the Contract by the ENGINEER.

A. PROJECT OFFICER

The CITY shall name a project officer to act as the City's representative with respect to the work performed under this Agreement. All correspondence with CITY relating to PROJECT shall be directed to the Project Officer and the Project Officer shall be invited to all progress meetings and other meetings called during the PROJECT.

B. PROMPT RESPONSE

To prevent an unreasonable delay in the ENGINEER'S work, the CITY will examine all reports, drawings, specifications, and other documents and will provide authorizations in writing to the ENGINEER to proceed with work within a reasonable time period.

C. PROJECT REQUIREMENTS

The CITY shall also furnish the following information: CITY design and construction standards; construction documents of projects within close proximity; as-built construction drawings and storm water calculations for developments adjacent to the PROJECT corridor; known property locations and conditions; zoning or deed restrictions; and permission for access to private property if necessary to perform work.

V. WORK SCHEDULE

This PROJECT, from design through construction completion, shall be performed by the ENGINEER in accordance with a schedule mutually developed by CITY and ENGINEER. Generally, the schedule for the PROJECTS are described as follows:

- A. After acceptance of the Engineering Agreement by the CITY, and with any specific modifications in scope described by the CITY, the ENGINEER shall design the PROJECT and prepare documents as called for in Article III(B). Based on a February 16, 2010 start date, Preliminary Design Services shall be completed by May 1, 2010. Right of Way acquisition will start upon approval of the Preliminary Design by the CITY. Final Design Services shall be completed by July 1, 2010 with a bid letting anticipated for July of 2010. This will be in time to allow for completion of the construction by the end of fall 2010. Construction Services as outlined in Article III(C) shall be completed following completion of all construction by the end of 2010. If changes are made to this schedule, the ENGINEER will submit an amendment to this Agreement for approval by the CITY.
- B. Upon completion of the PROJECT design with any specific modifications described by the CITY, the ENGINEER shall assist in the Bidding Phase as called for in Article III(C)1.
- C. The ENGINEER shall not be responsible for delays in the schedule which are beyond the ENGINEER'S control.

VI. COMPENSATION AND TERMS OF PAYMENT

The CITY shall pay the ENGINEER in accordance with the terms and conditions of this Agreement.

A. BASIC SERVICES

As set forth in Article III(B) the engineering fee will be the basis of a maximum fixed fee on hourly rates and fixed expenses as outlined in the Engineer's Standard Fee Schedule. The current fee schedule is shown in the attached Exhibit "A". Total fees of services shall not exceed the following amounts without approval of the CITY.

	<u>TOTAL</u>
1. Administration	\$5,900
2. Survey and Base Drawings	\$1,000
3. Public Involvement	\$5,600
4. Preliminary Design and Plans	\$17,700
5. Final Design and Construction Plans	\$14,500
	<hr/> \$44,700

Anytime the ENGINEER anticipates that actual engineering costs will exceed estimated engineering costs, he shall immediately notify the CITY, in writing, of such proposed increase and the reasons therefor. The CITY shall thereupon review such proposed increase and either accept or reject it.

B. CONSTRUCTION SERVICES

As set forth in Article III(C) the engineering fee shall be on the basis of a maximum fixed fee on hourly rates and fixed expenses as outlined in the Engineer's Standard Fee Schedule. The current fee schedule is shown in the attached Exhibit "A". Total fees of services shall not exceed the following amounts without approval of the CITY.

	<u>TOTAL</u>
1. Bidding Phase	\$4,000
2. Construction Administration	\$21,000
3. Construction Staking	\$5,000
4. Construction Observation	\$2,500
5. Record Drawings	\$900
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	\$33,400

C. ADDITIONAL SERVICES

As set forth in Article III(D) the engineering fee will be based on the current hourly rates and fixed expenses. The estimated engineering costs as provided to the CITY represents a probable budget amount. The CITY will be billed for actual direct hours spent and if the ENGINEER believes the budgetary figures will be exceeded, the CITY will be promptly notified by the ENGINEER.

	<u>TOTAL</u>
1. Environmental Wetlands Review	\$4,000
2. Cultural Resources Survey	\$5,000
3. Geotechnical Investigation	\$6,000
4. Landscape Design & Plans	\$3,000
5a. Right-of-Way Acquisition Plats & Legal Descriptions	\$9,000
5b. Compensation Estimates and Project Data Book (24 Temp)	\$4,000
5c. Right-of-Way Documents (24 Temp)	\$5,000
5d. Right-of-Way Negotiations and Acquisitions (24 Temp)	\$13,500
5e. Permanent Easement Acquisitions (2 Perm @ \$1,700)	\$3,400
5f. Right-of-Way Staking	\$1,000
6. Resetting Property Pins	\$3,500
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	\$57,400

VII. METHOD OF PAYMENT

The ENGINEER shall submit billings for Basic, Construction and Additional services to the CITY on a thirty (30) day basis under separate cover and shall be paid by the CITY within fourteen (14) days after approval by the City Council. The CITY shall pay the ENGINEER a percentage of the total fee for each phase or a cost not to exceed the amount shown in accordance with the following schedule:

A. BASIC SERVICES

	<u>TOTAL</u>
1. Administration	\$5,900
2. Survey and Base Drawings	\$1,000
3. Public Involvement	\$5,600
4. Preliminary Design and Plans	\$17,700
5. Final Design and Construction Plans	\$14,500
	<hr/> \$44,700

B. CONSTRUCTION SERVICES

	<u>TOTAL</u>
1. Bidding Phase	\$4,000
2. Construction Administration	\$21,000
3. Construction Staking	\$5,000
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C. ADDITIONAL SERVICES

	<u>TOTAL</u>
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5b. Compensation Estimates and Project Data Book (24 Temp)	\$4,000
5c. Right-of-Way Documents (24 Temp)	\$5,000
5d. Right-of-Way Negotiations and Acquisitions (24 Temp)	\$13,500
5e. Permanent Easement Acquisitions (2 Perm @ \$1,700)	\$3,400
5f. Right-of-Way Staking	\$1,000
6. Resetting Property Pins	\$3,500
	<hr/> \$57,400

TOTAL	\$135,500
CONTINGENCY (Hourly)	\$10,000
GRAND TOTAL	\$145,500

Billings shall include sufficient documentation to explain the charges. All billings shall be accompanied by a Billings Information Report on a form provided to the ENGINEER by the CITY.

VIII. TERMINATION OF AGREEMENT

For Cause - If, through any cause, the ENGINEER shall fail to fulfill in timely and proper manner the obligations under this Agreement, the CITY shall have the right to terminate this Agreement by specifying a date of termination in a written notice to the ENGINEER at least seven (7) working days before the termination date. In this event, the ENGINEER shall be entitled to just and equitable compensation for any satisfactory work completed.

IX. CONFLICT OF INTEREST

No elected official or employee of the CITY who exercises any responsibilities in review, approval, or carrying out of this Agreement shall participate in any decision relating to this Agreement which affects his or her direct or indirect personal or financial interest.

X. ASSIGNABILITY

The ENGINEER shall not assign any interest in this Agreement and shall not transfer any interest in the same without the prior written consent of the CITY.

XI. TITLE TRANSFER

The products of this Agreement shall be the sole and exclusive property of the CITY. Upon completion or other termination of this Agreement, the ENGINEER shall deliver to the CITY machine reproducible copies of any and all materials pertaining to this Agreement. For calculations, etc., on letter or legal size sheets, the copies shall be of a type possible to reproduce on a Xerox-type copier. For maps, drawings, sketches, plans, etc., not on such letter or legal size sheets, a photographically reproduced print on a stable mylar base shall be provided as the machine reproducible copy mentioned above. No sheets shall exceed 22" x 34". The ENGINEER'S reuse of designs under this Agreement is prohibited unless authorized by the CITY. The CITY may reuse the design, but in doing so shall assume all liability for the design.

XII. CONFIDENTIALITY

No reports, information, and/or data given to or prepared or assembled by the ENGINEER under this Agreement shall be made available to any individual or organization by the ENGINEER without prior written approval of the CITY.

XIII. INSURANCE

The ENGINEER shall maintain insurance to protect the ENGINEER from claims under Workmen's Compensation Acts; claims due to personal injury or death of any employee or any other person; claims due to injury or destruction of property; and claims arising out of

errors, omissions, or negligent acts for which the ENGINEER is legally liable. The amounts and extent of such insurance is as follows:

- | | |
|-----------------------------|---|
| 1. Professional Liability - | \$ 2,000,000 each claim; \$2,000,000 aggregate |
| 2. Vehicle Coverage - | |
| Bodily Injury | \$ 1,000,000 combined single limit (each accident) |
| 3. Workmen's Compensation - | \$ 100,000 each accident |
| 4. General Liability - | \$ 1,000,000 each occurrence; \$2,000,000 aggregate |

XIV. ARBITRATION

Any controversy or claim arising out of this Agreement may, if both parties agree, be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association.

The cost of the arbitration, if any, will be divided equally between the local government and the ENGINEER.

XV. ENGINEER'S RESPONSIBILITY

The ENGINEER shall be responsible for the professional quality and technical accuracy of all services furnished by the ENGINEER under this Agreement, except for that work provided by CITY. The ENGINEER shall, without additional compensation, correct or revise any error or deficiencies in his work. Approval of the CITY of any such work shall not in any way relieve the ENGINEER of responsibility for the technical accuracy and adequacy of said services. The CITY's review, approval or acceptance of, or payment for any of the services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

XVI. COMPLETENESS OF THE AGREEMENT

This document contains all terms and conditions of this Agreement and any alteration shall be invalid unless made in writing, signed by both parties and incorporated as an amendment to this Agreement. There are no understandings, representations, or agreements, written or oral, other than those incorporated herein.

XVII. ENGINEER'S CERTIFICATION OF REPORT

The ENGINEER shall place his certification on the Contract Documents, all in conformity with Chapter 114, Code of Iowa.

IN WITNESS WHEREOF, the parties have signed this Agreement as of the day and the year first above written.

CITY OF ANKENY, POLK COUNTY, IOWA

By _____
MAYOR

ATTEST:

CITY CLERK

CONSULTING ENGINEER
SNYDER & ASSOCIATES, INC.

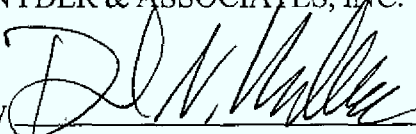
By  _____
PRESIDENT

EXHIBIT "A"

SNYDER & ASSOCIATES 2009-10 STANDARD FEE SCHEDULE

Billing Classification/Level	Billing Rate
Professional	
<i>Engineer, Landscape Architect, Land Surveyor, Legal, GIS, Environmental Scientist Project Manager, Planner, Right-of-Way Agent, Graphic Designer</i>	
Principal	\$150.00-160.00 /hour
Lead	\$140.00 /hour
Senior	\$130.00 /hour
VIII	\$125.00 /hour
VII	\$120.00 /hour
VI	\$115.00 /hour
V	\$108.00 /hour
IV	\$96.00 /hour
III	\$88.00 /hour
II	\$80.00 /hour
I	\$68.00 /hour
Technical	
<i>Technicians—CADD, Survey, Construction Observation</i>	
Principal	\$100.00 /hour
Lead	\$95.00 /hour
Senior	\$90.00 /hour
VIII	\$84.00 /hour
VII	\$77.00 /hour
VI	\$70.00 /hour
V	\$64.00 /hour
IV	\$57.00 /hour
III	\$49.00 /hour
II	\$42.00 /hour
I	\$36.00 /hour
Administrative	
<i>Clerical, Computer Programming, Financial</i>	
Principal	\$90.00 /hour
Lead	\$85.00 /hour
Senior	\$80.00 /hour
VIII	\$72.00 /hour
VII	\$68.00 /hour
VI	\$62.00 /hour
V	\$53.00 /hour
IV	\$45.00 /hour
III	\$40.00 /hour
II	\$37.00 /hour
I	\$35.00 /hour
Reimbursables	
Mileage	<i>current IRS standard rate</i>
1-person robotic equipment (<i>in addition to technical rate</i>)	\$25.00 /hour
Plotter Prints, Blueprints	\$0.20 /s.f.
Mylar Prints	\$2.00 /s.f.
Color Plots	\$2.00 /s.f.
Color Plots - Photo	\$5.00 /s.f.
Color Copies	\$0.50 /ea.
Outside Services	<i>As Invoiced</i>